IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Single Bench

REVIEW PETITION
~~MISC. CIVIL CASE~~ NO. 31 /2006

PETITIONER : Smt. Reeta M. Jethani, wife of Shri Manohar Jethani, aged about 36 years, resident of by side of Hotel Kohinoor, Baanstall, Amardeep Talkies Road, Raipur (C.G.).

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through – Secretary, Urban Administration and Development Department, (Mantralaya) D.K.S. Bhawan, Raipur (C.G.).
2. Municipal Corporation Bhilai, Through – Municipal Commissioner, Bhilai, Distt. Durg (C.G.).
3. Smt. Madhubala bedi, Wife of Late Manjeet Pal Singh, resident of New Khursipaar, Bhilai, Distt. Durg (C.G.)

APPLICATION FOR REVIEW OF ORDER DATED 06.09.2006 PASSED IN W.P. NO. 4865/2006.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

(21)

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

23.2.2007 (in Chamber)

This petition has been filed for reviewing the order dated 6.9.2006 passed in W.P.No.4865/2006. The aforesaid writ petition was filed for quashment of the Government's order dated 18.9.2000, by which, the erstwhile State of Madhya Pradesh had issued a direction that the open lands pertaining to commercial and residential use belonging to the possession of Municipal Corporation, Bhilai, admeasuring 38000 square meters shall not be leased out by the Corporation until further orders by the Government. It was mentioned in the order that the prohibition is being made on administrative grounds. The claim of he petitioner in the writ petition was that respondent no.3 possesses certain portion of land in the specified area and she has entered into an agreement with the petitioner on 17.8.2005, according to which, she is ready to surrender her rights in favour of the petitioner and she has no objection if the land is given on lease to the petitioner. Further prayer in the writ petition was, that since the prohibition has been imposed by the Government by the impugned order, the land is not being allotted and the agreement entered into between the petitioner and respondent no.3 is not being enforced, for which, representations were filed before respondents no.1 & 2 which are not being decided and in this situation, the petitioner has further prayed to issue an appropriate directions directing the respondents no.1 and 2 to decide her representation dated 26.5.2006 and 5,5.2006 in accordance with law with a further

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

direction to allot the subject land in favour of the petitioner on the basis of the agreement entered into between the petitioner and respondent no.3.

This court after hearing learned counsel for the petitioner dismissed the aforesaid writ petition holding that the action taken by the government in the impugned order dated 18.9.2000 was completely based upon administrative decision taken by the Government and further that it does not impose a complete ban regarding grant of lease under the Transfer of Property law, but it only impose temporary impediment on certain internal grounds. So far as the agreement between the petitioner and respondent no.3 is concerned, this Court held that the agreement would not be binding on any third party including the State or the municipal Corporation and no rights under the agreement can be enforced either against the State or against the Corporation and the writ petition for such an enforcement, in any manner, would not lie. About the representation, this Court said that it is not the statutory representation and a direction for disposal of a general representation is not required to be issued by this Court.

The review petition has been filed on the ground that some similarly placed persons have been allotted the similar land, therefore, the similar treatment should have been given to the petitioner and secondly, the possession of respondent no.3 over the land has been said to be that of the encroacher which is also not correct.

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

So far as the case of similar treatment is concerned, it is pleaded vide para 2 of the review petition that it was a case of the year 1998. Admittedly, at that time, the Government's order dated 18.9.2000 (Annexure P-1 in the main petition) was not enforced. Therefore, no rights can be claimed on the ground of equality because the prevailing situations at the time of earlier case and the present case are quite different.

So far as other point regarding encroachment by respondent no.3 is concerned, under ***M.P.Nagar Tatha Gram Nivesh Vikasit Bhoomiyo, Griho, Bhavano Tatha Anya Sanrachanao Ka Vyayan Niyam, 1975,*** the "Authority" has been described vide Rule 2(a), according to which, it means the Town and Country Development Authority. It has been provided vide Rule 3 that no Government land vested in or managed by the Authority shall be transferred except with the general or special sanction of the State Government given in that behalf. Rule 4 provides that all other land (hereinafter called the "Authority land") shall be transferred in accordance with the rules i.e., Rule 5 onwards. Rule 5 envisages that the "Authority land" shall be transferred as under:-

(a) By direct negotiations with the partity; or

(b) By public auction; or

(c) By inviting tenders; or

(d) Under Concessional terms

Rule 6 onwards provides for other conditions. All these are suggestive of the fact that the lands which are to be allotted under

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section 58 of the principal Act e.., M.P (C.G) Nagar Thatha Gram Nivesh Adhiniyam, 1973 shall either be the Government land vested in or managed by the authority or the "Authority land", itself. Therefore, it is clear that any Government land or the Authority land, as the case may be, is not the land belonging to a private person holding its possession and he/she shall be deemed to be the encroacher.

I do not find any reason to review the earlier order passed by this Court in W.P.No.4865/2006. This petition for review has no merits and the same is dismissed in Chamber itself.

Counsel be informed immediately.

Sd/-
Sunil Kumar Sinha
Judge

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